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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,864	12/20/2004	Guangming Dai	018158-023010US	8201

73517 7590 09/01/2010
Townsend and Townsend and Crew LLP/AMO
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111

EXAMINER

FARAH, AHMED M

ART UNIT	PAPER NUMBER
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3769

MAIL DATE	DELIVERY MODE
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09/01/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/825,864	Applicant(s) DAI ET AL.	
	Examiner Ahmed M. Farah	Art Unit 3769	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 and 85-88 is/are pending in the application.
- 4a) Of the above claim(s) 44 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-43 and 85-87 is/are allowed.
- 6) ☒ Claim(s) 88 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/23/10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 88 is rejected under 35 U.S.C. 102(b) as being anticipated by Ruiz US Patent No. 6,547,393.

Ruiz discloses a refractive surgery system and method of adjusting a set of refractive surgery system parameters for use in a refractive treatment, the method comprising: inputting a target optical surface shape; determining a model optical surface shape based on the target optical surface shape and a set of refractive surgery system parameters; comparing the target optical surface shape and the model optical surface shape to determine an aberration induced by the set of refractive surgery system parameters; adjusting the set of refractive surgery system parameters so as to inhibit the induced aberration; and administering the refractive treatment to a patient, wherein the refractive treatment is based on the adjusted set of refractive surgery system parameters as claimed (see Figs. 1, 2, 6, 6A, and 7).

Claim 88 is rejected under 35 U.S.C. 102(b) as being anticipated by L'Esperance US Patent No. 4,669,466.

L'Esperance discloses a refractive surgery system and method of adjusting a set of refractive surgery system parameters for use in a refractive treatment, the method comprising: inputting a target optical surface shape; determining a model optical surface shape based on the target optical surface shape and a set of refractive surgery system parameters; comparing the target optical surface shape and the model optical surface shape to determine an aberration induced by the set of refractive surgery system parameters; adjusting the set of refractive surgery system parameters so as to inhibit the induced aberration; and administering the refractive treatment to a patient, wherein the refractive treatment is based on the adjusted set of refractive surgery system parameters as claimed (see Fig. 1).

Allowable Subject Matter

Claims 1-43 and 85-87 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon, Tue, Thur and Fri between 9:30 AM 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johnson Henry can be reached on (571) 272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3769

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ahmed M Farah/
Primary Examiner, Art Unit 3769

August 27, 2010.